

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION

ANTHONY HAMMOND MURPHY,	)	
	)	
Plaintiff,	)	1:21-CV-00209-RAL
	)	
vs.	)	RICHARD A. LANZILLO
	)	UNITED STATES MAGISTRATE JUDGE
THE TOT BABY CORPORATION,	)	
	)	
Defendant,	)	PRE-MEDIATION/SETTLEMENT
	)	CONFERENCE ORDER
	)	SCHEDULING ORDER

A mediation/settlement conference in this case is hereby scheduled before United States Magistrate Judge Richard A. Lanzillo for **Monday, December 20, 2021, beginning at 9:00 a.m. and will be conducted by Zoom video conference.** The Parties and Counsel must be available for the entire day. Set forth below are the procedures the Court requires the Parties to follow and which the Court will employ in conducting the video mediation.

1. Zoom Video Conference Information

Participants in the mediation shall join the video conference at 8:55 a.m. **Instructions for accessing the Zoom conference will be sent to Counsel via a separate email prior to that date and time.** The Court has the ability to place participants in separate caucus or “waiting” rooms to facilitate confidential communications among counsel and clients/representatives as well as separate caucuses with the judge. Counsel and their clients are encouraged to test their Zoom conference technology in advance of the mediation to minimize the potential for delays on the day of the mediation. Counsel may contact Judge Lanzillo’s Courtroom Deputy, Debra

Mayo, at 814-464-9610 or [debra\\_mayo@pawd.uscourts.gov](mailto:debra_mayo@pawd.uscourts.gov), if they or their clients have any questions regarding the Zoom video conference arrangements. General scheduling or logistical inquiries may also be made to Staff Attorney John B. Heasley at (814) 874-5908 or via email at [john\\_heasley@pawd.uscourts.gov](mailto:john_heasley@pawd.uscourts.gov).

2. Pre-Mediation/Settlement Exchange of Demand and Offer

A mediation/settlement conference is more likely to be productive if, prior to the mediation, the parties have exchanged written settlement proposals. Accordingly, on or before December 13, 2021, Plaintiff's counsel shall submit a written settlement demand to Defendant's counsel with a brief explanation of why such a settlement is appropriate. On or before the December 17, 2021, Defendant's counsel shall submit a written response, and if appropriate, settlement counterproposal to Plaintiff's counsel with a brief explanation of why such a settlement is appropriate. **Plaintiff's counsel shall send copies of all letters to Judge Lanzillo's Staff Attorney, John B. Heasley, by December 17, 2021, to the following email address: [john\\_heasley@pawd.uscourts.gov](mailto:john_heasley@pawd.uscourts.gov). Do not file copies of these letters on the Court docket.**

3. Parties' Confidential Position Letters Regarding Settlement

On or before the day of the mediation, the parties shall separately submit, via email attachment brief confidential letters to the Court detailing the relative strengths and weaknesses of their case, as well as settlement positions, including monetary amounts. The letters should also state the names and titles/positions of all individuals who will be attending the mediation. Confidential letters will not be shared with opposing counsel. Accordingly, candor is expected. **These letters may be emailed to Staff Attorney John B. Heasley at the following email**

address: [john heasley@pawd.uscourts.gov](mailto:john_heasley@pawd.uscourts.gov). Again, do not file copies of these letters on the Court docket.

5. Pre-Settlement Telephone Conference

A pre-settlement telephone conference is hereby set for **Tuesday, December 7, 2021, beginning at 9:00 AM**. Instructions for accessing the Court's telephone conference call system will be emailed to counsel prior to this conference.

4. Attendance of Parties Required

Parties having full and complete settlement authority are required to personally participate in the video conference unless Judge Lanzillo and the Parties have otherwise agreed during the pre-mediation telephone conference, in which case the representative shall remain available to participate by telephone or to join in the video conference as necessary.

5. Mediation/Settlement Format

The Court will use a facilitative mediation format. The mediation/settlement conference will begin with a joint session during which each party may, but need not, make a brief opening statement or presentation. The parties are encouraged to avoid aggressive advocacy during opening statements as this can be counterproductive to the process.

The joint session shall be followed by private caucusing by the Court with each party. In caucus, you should discuss information which may assist in working toward a resolution, but which you would prefer not to disclose in direct negotiations. The caucuses are also utilized to provide an opportunity to assess realistic options for resolution, without endangering any Party's negotiation posture. Caucusing will continue until an option has been developed which all sides deem acceptable.

The Court expects both the lawyers and the Party representatives to be fully prepared to participate. The Court encourages all parties to keep an open mind in order to reassess their previous positions and to consider creative means for resolving the dispute.

6. Confidentiality

All statements made in the course of joint sessions, including opening presentations, are confidential settlement discussions. Statements may not be used in discovery and are inadmissible at trial. Any statements made or information disclosed to the Court in private caucus is privileged and disclosure cannot be compelled under any circumstances.

DATED this 30th day of November, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Lanzillo", with a large, sweeping flourish above the name.

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RICHARD A. LANZILLO  
UNITED STATES MAGISTRATE JUDGE